

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:

Mordechay BEYAR, et al.

Serial Number:

10/628,499

Filed:

July 28, 2003

Title:

SPACER FILLER

Art Unit:

3732

Examiner:

Eduardo C. Robert

Mail Stop Amendment Honorable Commissioner of Patents P.O. Box 1450 Alexandria, VA 22313-1450

ELECTION

Sir:

This letter is in response to an Office Action dated April 19, 2005.

The present application includes claims 1-8, which are subject to an election requirement.

In response to the election requirement, applicants elect species I. Species I is illustrated in Figs. 1A-1D and all of claims 1-8 are readable on this species. These Figs. show a spacer 20 which meets the requirements of claims 1-4, which spacer could be used with the enclosure of claim 5 and/or could be included in a kit of claim 6. As explained on pages 22-23 of the present application, spacer 20 of species I could be used with different types of precursors, including those of claims 7 and 8.

Applicant notes that MPEP §806.04(1) states that "claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed for the second species and not for the first". Therefore, in this case, claims 1-8 should not be classified as belonging to different species.

An office action on the merits is respectfully awaited.

110/03668 A02

If the Examiner is unable to agree that the claims are all patentable, he is respectfully requested to contact the undersigned at toll free 1 (877) 428-5468. This number connects directly to our office in Israel. Please note that Israel is 7 hours ahead of Washington and that our work week is Sunday-Thursday.

Respectfully submitted, Mordechay BEYAR, et al.

Maier Fenster Reg. No. 41,016

May 4, 2005 William H. Dippert, Esq. Reed Smith LLP. 599 Lexington Avenue, 29th Floor New York, NY 10022-7650 Tel: (212) 521-5400

PTO/SB92 (08-00) Approved for use through 10/31/2002. OMB 0651-0031
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Applicant:

Mordechay Beyar, et al.

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10/628,499

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July 28, 2003

For:

SPACER FILLER

Enclosures: (1) Transmittal Letter (in duplicate);

(2) Election (2 pages);

(3) Acknowledgement Postcard.

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MAY 05 2005 C. A 30 LEG

TRANSMITTAL LETTER (General - Patent Pending)

Docket No. 110/03668

In Re Application Of: Mordechay BEYAR et al.

Application No. Filing Date Examiner Customer No. Group Art Unit Confirmation No. 10/628,499 July 28, 2003 Eduardo C. ROBERT 44909 3732 5064

Title: SPACER FILLER

COMMISSIONER FOR PATENTS:

Transmitted herewith is:

Response to Election Requirement dated April 19, 2005

in the above identified application.

- No additional fee is required.
- ☐ A check in the amount of

is attached.

- The Director is hereby authorized to charge and credit Deposit Account No. 03-3419 as described below.
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 - Credit any overpayment.
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Signature

Dated: May 4, 2005

Maier FENSTER, Reg. No. 41,016

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